

These are intended to be “Action Minutes”, which primarily record the actions voted on by the Planning Board on September 14, 2011. The full public record of this Meeting is the audio/video recording made of this meeting and kept in the Planning Board’s records.

PRESENT: Stewart Sterk, Chairman; Michael Ianniello,
Lou Mendes, Ingemar Sjunneemark, Lee Wexler
Lester Steinman, Esq., Legal Consultant
Rob Melillo, Building Inspector
Hugh Greechan, Engineering Consultant
Susan Favate, BFJ Planning

CALL TO ORDER

Mr. Sterk called to order the Regular Meeting at 7:03 p.m.

1. 531 FAYETTE AVE., ETRE REALTY –Dumpster Permit

No appearance.

2. 501 E. BOSTON POST ROAD –Dumpster Permit

No appearance.

3. 700/1100 E. BOSTON POST ROAD-Dumpster Permit

No appearance.

4. 406 MAMARONECK AVE. –Dumpster Permit

Mr. Anthony Caliguiri appeared for a dumpster enclosure permit. The dumpster is located in the rear. It is 75 feet away from the street, and is on a four foot concrete pad. There will be screening around it and two gates. The enclosure will be a brown plastic material and will match the brick building. The height is six feet. It will not interfere with parking.

On Motion of Mr. Ianniello, and seconded by Mr. Sjunneemark, the Application for a dumpster enclosure permit is approved.

Vote:

Ayes: Ianniello, Sjunneemark, Wexler, Sterk

Nays: None

Mr. Mendes arrived late.

5. APPROVAL OF MINUTES

On Motion of Mr. Sjunneemark, and seconded by Mr. Ianniello, the July 27 Minutes are approved as corrected.

Vote:

Ayes: Ianniello, Mendes, Sjunneemark, Wexler, Sterk
Nays: None

On Motion of Mr. Sjunneemark, and seconded by Mr. Wexler, the July 13 Minutes are approved as amended.

Vote:

Ayes: Ianniello, Mendes, Sjunneemark, Wexler, Sterk
Nays: None

On Motion of Mr. Ianniello, and seconded by Mr. Sjunneemark, the August 8 Minutes are approved.

Vote:

Ayes: Ianniello, Mendes, Sjunneemark, Wexler, Sterk
Nays: None

APPROVAL OF RESOLUTIONS

6. 818 THE CRESCENT-Wetland Permit

On Motion of Mr. Wexler, the Resolution for a wetland permit is approved, and seconded by Mr. Sjunneemark.

Vote:

Ayes: Ianniello, Mendes, Sjunneemark, Wexler, Sterk
Nays: None

The Resolution is included as a reference.

DRAFT RESOLUTION VILLAGE OF MAMARONECK PLANNING BOARD Adopted September 14, 2011

RE: Mr. & Mrs. Richard Ottinger 818 The Crescent – Resolution of Wetland Permit Approval

After due discussion and deliberation, on motion by Mr. Wexler, seconded by Mr. Sjunneemark, and carried, the following resolution was adopted:

WHEREAS, on April 26, 2011, Mr. & Mrs. Richard Ottinger, the “Applicant,” (all references to which shall include and be binding upon the Applicant’s successors and/or assigns) submitted to the Village of Mamaroneck Planning Board (“Planning Board”) an Application with accompanying documentation, seeking tidal wetland permit approval (“Application”) from the Planning Board; and

WHEREAS, the Applicant’s property is located at 818 The Crescent, within the R-15 Residential District (“the Property”); and

WHEREAS, within a locally regulated tidal wetland area, the Applicant proposes to construct a tie-back and dead-man system to strengthen and stabilize the existing seawall at the property, with no changes proposed to the residence itself, and these improvements are illustrated and described on the following set of plans as submitted and subsequently revised by the Applicant which form a part of the Application:

1. Drawing #1 “Seawall Stabilization Plan,” prepared by Leonard Jackson Associates dated November 10, 2010, and revised April 29, 2011, and May 19, 2011;
2. “Ottinger Letter of Map Revision (LOMR) – Revised Seawall Analyses & Coastal Analyses,” prepared by Leonard Jackson Associates dated October 11, 2010;
3. “Tie-Back System Structural Analyses Summary,” prepared by Leonard Jackson Associates dated June 29, 2011;
4. “Summary of FEMA LOMR Application,” prepared by Leonard Jackson Associates dated June 29, 2011;
5. “Ottinger Wetlands Permit Substantiation,” prepared by Leonard Jackson Associates dated July 20, 2011;
6. Coastal Assessment Form “(CAF)” dated June 20, 2011, and revised as of July 20, 2011.
7. Property survey, deed and list of adjacent property owners within 100 feet.

WHEREAS, in support of its Application, the Applicant also submitted a Short-Form Environmental Assessment Form (“EAF”) pursuant to the State Environmental Quality Review Act [“SEQRA” (6 NYCRR Part 617)] dated June 26, 2011; and

WHEREAS, the Planning Board is familiar with the Property and all aspects of the proposed action and has been satisfied that the proposed development will conform to the requirements of the Village Code; and

WHEREAS, the Planning Board has carefully examined the Application and received comments and recommendations from the Planning Board’s Attorney and from the Village’s Planning Consultant regarding SEQRA, consistency with the Village Local Waterfront Revitalization Program (LWRP) and standards for wetland permits, in memos dated May 23, 2011; June 20, 2011; July 13, 2011; and July 27, 2011; and

WHEREAS, the proposed action has been fully reviewed by the Village’s Engineering Consultants with respect to conformance with Chapter 294 (“Stormwater Management and Erosion and Sediment Control”) of the Village Code; the New York State Department of

Environmental Conservation (NYSDEC) Stormwater Management Design Manual, last revised August 2010; and *New York State Standards and Specifications for Urban Erosion and Sediment Control*, dated August 2005, and comments were provided by former Consulting Engineer Keith Furey in a memo dated May 18, 2011, and current Consulting Engineer Hugh Greechan in a memo dated July 27, 2011; and

WHEREAS, the former Village Building Inspector John Winter confirmed in an email dated July 14, 2001, that the existing fill on the property is legal; that the as-built seawall, while taller than as approved, reflects a “minor field change” and has passed all inspections conducted by the Building Department; and that the building permits on the property have been kept open to incorporate the proposed modifications to the seawall and not because of any outstanding violations; and has therefore satisfied all concerns of the Planning Board regarding the legality of the existing seawall and fill; and

WHEREAS, Ocean and Coastal Consultants Engineering, P.C. in a letter to the Applicant dated December 6, 2007 confirmed that the seawall would not have adverse impacts from flooding or wave action on adjacent properties; and

WHEREAS, Ocean and Coastal Consultants Engineering, P.C., in its letter to the Applicant dated December 6, 2007, also confirmed that the fill and grading conducted on the property “meet the definition of allowable fill in a V-zone in accordance with FEMA’s guidelines,” and

WHEREAS, the New York State Department of Environmental Conservation (DEC) issued a “Notice of No Jurisdiction” letter dated May 20, 2011, confirming that no Tidal Wetlands Permit, Freshwater Wetlands Permit, Article 15 Excavation and Fill Permit or Article 11 Incidental Take Permit is required from the DEC; and

WHEREAS, the New York State Office of General Services (OGS), in a letter written to the Applicant dated June 14, 2011, confirmed that the proposed placement of a dead-man system to “strengthen a seawall existing on [the Applicant’s] property for decades will not require a lease, easement or permit” from the OGS pursuant to Article 6 of the Public Lands Law, and has therefore satisfied all concerns of the Planning Board regarding the ownership of the foreshore area of the applicant’s property; and

WHEREAS, the Village of Mamaroneck Harbor and Coastal Zone Management Commission (HCZMC) issued both a Negative Declaration under SEQRA and a determination of consistency with the Village’s LWRP for the existing seawall at the property, on June 21, 2006; and

WHEREAS, the New York State Department of State, Division of Coastal Resources, issued a General Concurrence that the existing seawall “meets the Department’s general consistency concurrence criteria,” in a letter dated July 21, 2006; and

WHEREAS, the applicant first appeared before the Planning Board at its regular meetings on May 23, 2011, and a duly advertised public hearing was held on the application for

a tidal wetlands permit on June 22, 2011, continued on July 13, 2011, at which times all those wishing to be heard were given an opportunity to be heard; and

WHEREAS, the Planning Board conducted a duly noticed visit of the project site on June 26, 2011, which was open to members of the public; and

WHEREAS, on July 13, 2011, on motion by Mr. Wexler, seconded by Mr. Mendes- and carried, the public hearing on the tidal wetland permit application was closed, and the record was kept open to accept written comments from the public through July 20, 2011; and

WHEREAS, the Planning Board received and considered both written and oral comments from the public throughout its deliberation on the application; and

WHEREAS, the Planning Board has determined that concerns expressed by certain members of the public regarding the Applicant's ownership of the Property, the rehabilitation of the seawall at the Property in 2007 and the Application generally have been refuted in the record by statements, inspections, studies and other documentary evidence submitted by State and Village officials and agencies, the Applicant and its professional consultants and thus constitute generalized community opposition unsupported by study, analysis or opinion of any licensed or otherwise technically qualified professional or governmental entity; and

WHEREAS, based upon the record in this matter, the Planning Board has determined that concerns expressed by certain members of the public regarding the residence previously constructed on the Property and the pending application to the Federal Emergency Management Agency (FEMA) for a revision to the Flood Insurance Rate Map for Westchester County, New York, are not germane to the application for a Village wetlands permit to construct a tie-back and deadman system to strengthen and stabilize an existing seawall; and

WHEREAS, upon advice of the Building Inspector, the proposed seawall improvement is not exempt under Section 192-4 from the permit requirement of the Village's Wetlands Law; and

WHEREAS, the Planning Board determined on May 23, 2011, that the Project is a Type II Action pursuant to 6 NYCRR. § 617.5(c) (2), § 617.5(c) (7) and § 617.5(c) (10); and

WHEREAS, for the reasons set forth in a memorandum from the Village's Planning Consultant dated July 27, 2011 the Planning Board determined on July 27, 2011, that the Project is consistent with the Village's Local Waterfront Revitalization Program ("LWRP") pursuant to §240 of the Village Code; and

WHEREAS, in granting a tidal wetlands permit under the Village's Wetlands Law, the Planning Board has determined that the standards and criteria set forth in Section 192-14 E have been satisfied for the following reasons:

- The proposed modification to the existing seawall is not anticipated to have any negative impact on the tidal wetlands given that the shoreline has already been

- improved with an erosion control structure (the existing seawall). Nor does the proposed modification represent an increased encroachment into the wetland area that could impair its flood-reducing capacity.
- The proposed activity has been determined to be a Type II Action, which, pursuant to the SEQRA regulations, does not have a significant impact on the environment, and is exempt from review under the State Environmental Quality Review Act (SEQRA).
 - The proposed seawall modification is anticipated to have a positive impact on public health and welfare due to improved long-term flood management systems and anticipated reduction in potential loss of life or property.
 - The proposed modification to the seawall is intended to improve and strengthen the control of erosion on the project site.
 - The proposed action has been shown to be reasonable and necessary by the Applicant's submitted analyses of the existing seawall, which demonstrate that the proposed tieback system is a reasonable means to stabilize the seawall structure.
 - There is no reasonable alternative for the proposed activity elsewhere on the site; the proposed modification to the existing seawall must occur adjacent to the current structure.
 - Stabilization of the seawall ensures the continued preservation, protection and conservation of tidal wetlands provided by the existing seawall, and no excavation or fill is anticipated to disturb the adjacent wetlands during construction.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Planning Board hereby grants all requested approvals to the Project subject to the following conditions:
 - (a) The Applicant shall pay all outstanding consultant review fees in connection with Planning Board review of this application.
 - (b) The Applicant shall forward a copy of the CAF to the Harbor and Coastal Zone Management Commission (HCZMC), pursuant to the provisions of Section 240-28 (B) of the Village Code.
 - (c) As consistent with the Village's LWRP, the Applicant shall use all available best management practices during construction of the proposed seawall modification to avoid potential negative impacts on fish and wildlife species and to minimize stormwater runoff impacts.

2. When the above conditions have been satisfied, two (2) sets of the above-referenced plans illustrating the approved conditions shall be submitted for the endorsement of the Planning Board Chairman. One (1) set of the endorsed plans will be returned to the Applicant, and one (1) set will be provided to the Village Building Inspector. Prior to issuance of a certificate of occupancy, the Building Department will verify that the "as-built" conditions conform to the final approved wetland permit.

VOTE: Ayes: Mendes, Sjunneemark, Sterk, Ianniello, Wexler
 Nays: None

Abstain: None

PLANNING BOARD
Village of Mamaroneck

Date: September 14, 2011

Stewart Sterk, Chairman

NEW BUSINESS

7. 910 STUART AVE. T-MOBILE Recertification

Ms. Cara Bonomolo, Esq., of Snyder & Snyder, LLP, appeared for the T-Mobile recertification. The original certification dates back to March, 2000. The facility is in compliance, and an Exposure Report was submitted.

The attorney said that there are three panel antennas. Three original antennas were replaced, and small rooftop equipment was added to improve technology. She said that the antennas on the roof are kept low, and the roof top is not accessible to the public.

Mr. Steinman said that recertification is required every five years. Any changes need to come back to the Board. Mr. Sjunneberg stated that the change of equipment was not approved.

The attorney said that this is an existing facility, and the use has not changed. Mr. Sterk stated that the permit has expired. The attorney said that T-Mobile needs a license to operate which is an FCC regulation. She agreed that changing the antennas was not approved by the Village and this was brought to T-Mobile's attention. All required documents have now been submitted. She said that T-Mobile is not proposing to do anything different. The attorney asked that a Recertification be granted. She queried what purpose would it serve to not grant a renewal. Mr. Sterk said that the law needs to be followed and if this was treated lightly it would send a message that there is no reason for anyone else to follow the laws set forth by the Village. Mr. Sjunneberg said that there has to be consequences in not following the rules.

Mr. Sterk said there are three alternatives which are a Recertification, new application for a special permit, or an amended application for a special permit.

Mr. Sterk said that SEQRA documents are required for a new Application and for an amended Application. A new application will not allow the operation to go forward in the interim. An amendment to the original application will avoid stopping the operation.

The Board agreed to allow for an amended Application to the special permit. Mr. Sterk said that most of the documents have been submitted. The CAF and EAF documents are outstanding.

8. 122-134 MAMARONECK AVE. 2-story addition at rear of existing building and renovation of front façade. Site Plan Review

Mr. Michael Berta, architect for the Applicant, appeared. He said one store will be eliminated to create a walkway leading to the back. There are three tenants currently. The second floor will be for storage. The building façade will be renovated as it has an outdated look. He said they are currently before the BAR. The BAR asked that they tone down the color, eliminate signage above the door, and put numbers on the building. They plan to renovate the entire building. Low wattage up and down lighting will be installed. Property will be well lit. There will be a covered walkway. Gates will be put in and will be closed at the end of the business day. He said there will be pavers. The Village landscape consultant will review the landscape plan. There will be a seating area in the rear. The courtyard will provide an atmosphere where people can sit and eat.

There will be a provision for apartments upstairs which is not in their current plan. There will be an addition to the back of the building which will add square footage to the stores.

The architect said they hope to get a tenant who will take two stores. No marketing has begun.

Mr. Sterk stated that the Coastal Assessment Form needs to be completed.

9. 306 SOUNDVIEW AVE.-Luis Tormenta –Sub-division of 10,000 sq. foot lot into 2-lots.

Mr. Clark Neuringer, architect, appeared for the Applicant who is out of the country. He stated that he is a member of the Zoning Board of Appeals. A full site plan was submitted. The property is at the corner of James Street and is R-5 zoning. The existing lot is 10,000 square feet. Minimum lot size is 5,000 square feet. The existing house, built in 1920, is a two-family residence and is a legal structure. It conforms to all applicable laws. The proposed subdivision is for creating two lots, and is a small subdivision. He said there are a few changes to the present house whereby the garage and rear deck will be removed. Creating two lots will not create any non-conformity as relates to zoning. He said the existing house is 2,740 square feet. There is an existing shared driveway off of James Street. There are two curb cuts. One is on Soundview Avenue and the other is on James Street. There is an existing Village tree that will be discussed. The plan is to remove it as it will interfere with the parking plan. All proposed actions are legal and there are no variances or special permits required. He said that a perc test will be done.

Mr. Sterk said that the Application is problematic. The architect stated that what is being proposed is 'as of right'. The area was re-zoned in 1968.

Multiple neighbors appeared and stated their dissatisfaction regarding this Application as follows:

- This is a two-family home in a one-family zone
- Out of character for the neighborhood
- Proposed in-front parking on the property is unacceptable
- Back yard will be smaller as the proposed house will be close to the rear property line
- The proposed house will be five feet away from the main house.
- There is an absentee owner, who rents this property and has no interest in the neighborhood
- Seven children currently live at this address
- At issue is the Zoning Board Chair representing the Applicant this evening
- Proposed house doesn't fit, will give a crowded look.

Mr. Neuringer said he has no comments to the opinions of the neighbors.

Mr. Sterk asked that the Application be reworked.

Mr. Ianniello moved to declare this an "Unlisted Action" under State Environmental Quality Review Act, seconded by Mr. Sjunneemark.

Vote:

Ayes: Ianniello, Mendes, Sjunneemark, Wexler, Sterk

Nays: None

PUBLIC HEARINGS ON WETLANDS

10. 1058 COVE ROAD-Construction of in-ground swimming pool, fence

Mr. Sean Jancski, landscape architect, appeared for the owner. He submitted a revised plan. The pool was shifted eight feet from Delancey Cove, and will be shortened by two feet. The planting plan enhances the existing screening. A licensed engineer will prepare a storm water plan. Mr. Sterk said that the planning board seeks a 1 to 1 mitigation, and suggested shifting the pool further. The architect said that 270 square feet has been taken out of the buffer zone. Mr. Ianniello remarked that half of the pool is in the buffer zone. Mr. Sjunneemark suggested reducing the perimeter of the parking area. Mr. Sterk asked that they revise the plan and return at next month's meeting.

Mr. Ianniello moved to declare the wetland permit a Type II action under SEQRA, seconded by Mr. Sjunneemark.

Vote:

Ayes: Ianniello, Mendes, Sjunneemark, Wexler, Sterk

Nays: None

11. 1084 BAYHEAD DRIVE-Robert & Betty Hut –Wetland Permit-One-story addition to existing residence.

Mr. Rex Gedney, architect, appeared for the Applicants, who also were present. He said the CAF was submitted. The architect said that they are out of the 50 foot buffer zone. Mr. Sterk said that the proposed house is within the 100 foot buffer zone, and the addition is all in the buffer zone. Mr. Sterk said that the Board seeks a 1 to 1 reduction. The architect said it is zoning compliant. Mr. Sterk said this is a wetland issue. Mr. Sjunneemark suggested eliminating the swimming pool. Also, one of the two concrete driveways could be eliminated. Mr. Sterk suggested a two-story structure rather than expanding the existing one-story structure. The architect said the owners want the house to remain on one floor. He said the current size of the house is 3,356 square feet, and the proposed master bedroom suite with a bathroom and closets will be 2,000 square feet. Mr. Sterk said that the expansion is not possible as proposed. Ms. Favate said that good faith efforts have to be made here. Mr. Ianniello suggested taking out the patio and putting in a pervious surface patio.

A neighbor at 1074 Bayhead Drive appeared and said that if a second story is built, she will lose her view of the Sound. She also said that the neighbors received a large assessment for repaving the private road. Therefore, the weight of the construction trucks will damage the recent road work.

A neighbor at 1070 Bayhead Drive came forward and said that new construction will create further damage to the area as they have to evacuate during large storms. She mentioned that they were not properly noticed for this evening's meeting.

Mr. Sterk asked that they return with an updated plan.

OLD BUSINESS

12. PINE STREET-Proposed single family residence and stormwater management.

Mr. Dominick Brescia appeared. He said that he has been in a number of meetings concerning this issue, and plans to meet with the Village Manager. Mr. Sterk said that the lot has to be on a street that is free from water issues and flooding. He said that the street is not there yet. The lot is not suitable for building. All of Pine Street water issues have to be solved first. Mr. Greechan said that the Furey plan would work. However, the Village is pursuing another option. He noted that the pitch is good, and the grades will work.

Mr. Stuart Tiekert of 130 Beach Avenue, said that a determination should come from the planning board soon.

13. MAMARONECK BEACH & YACHT CLUB-Revised parking site plan per ZBA resolution.

Adjourned to October 26, 2011.

Mr. Sterk recused himself.

Mr. Wexler said that a letter, dated September 12, 2011, was received from Paul Noto, Esq., who wrote on behalf of his client, Mamaroneck Beach & Yacht Club. He requests that this matter be placed on the October 26 Planning Board agenda regarding an Application by the Mamaroneck Beach & Yacht Club to amend its Site Plan for eight (8) additional improved parking spaces.

He also requests that the amended Site Plan Application be referred to the Westchester County Planning Board for review.

Mr. Wexler said that a Resolution from this Board will be prepared.

On Motion of Mr. Ianniello, and seconded by Mr. Sjunneemark, the request to refer the amended Site Plan Application by Mamaroneck Beach & Yacht Club for eight (8) additional improved parking spaces to the Westchester County Planning Board for review is granted.

Vote:

Ayes:	Ianniello, Mendes, Wexler, Sjunneemark
Nays:	None
Abstain:	Sterk

Mr. Sterk rejoined the meeting.

Mr. Sterk said that the next scheduled planning board meeting will be on Wednesday, October 12.

ADJOURNMENT

There being no other business, and on Motion of Mr. Ianniello, and seconded by Mr. Sjunneemark, the meeting was adjourned at 10:13 p.m.

Respectfully submitted,

Anne Hohlweck
Recording Secretary